

1960

## ELIGIBILITY TO VOTE

Follow this and additional works at: [http://repository.uchastings.edu/ca\\_ballot\\_props](http://repository.uchastings.edu/ca_ballot_props)

---

### Recommended Citation

ELIGIBILITY TO VOTE California Proposition 8 (1960).  
[http://repository.uchastings.edu/ca\\_ballot\\_props/616](http://repository.uchastings.edu/ca_ballot_props/616)

This Proposition is brought to you for free and open access by the California Ballot Propositions and Initiatives at UC Hastings Scholarship Repository. It has been accepted for inclusion in Propositions by an authorized administrator of UC Hastings Scholarship Repository. For more information, please contact [marcusc@uchastings.edu](mailto:marcusc@uchastings.edu).

crease would be greater than if you were to remove one man from the Board. It is with this reasoning that I urge you to veto this proposition. Vote No!

ROBERT L. FEGEL  
7425 Kengard St.  
Whittier, California  
Insurance Agent

<b>8</b>	<b>ELIGIBILITY TO VOTE. Assembly Constitutional Amendment No. 5.</b> Changes prohibitions of eligibility to vote from those convicted of infamous crime to those convicted of felony during punishment therefor and those convicted of treason.	YES	
		NO	

(For Full Text of Measure, See Page 8, Part II)

**Analysis by the Legislative Counsel**

This constitutional amendment would amend Section 1 of Article II of the Constitution to permit a person who has been convicted of a felony, other than treason or the embezzlement or misappropriation of public money, to vote and exercise other privileges accorded an elector, upon paying the penalties prescribed by law for his offense, including any period of probation or parole. At the present time, under the Constitution, a person who is convicted of a felony loses his privileges as an elector and cannot regain those privileges unless he is pardoned by the Governor. The constitutional provision being amended presently refers to "infamous crimes" rather than "felonies." The courts have indicated that every felony constitutes an infamous crime, but have given no indication as to whether the term includes any other type of offense. This measure would eliminate any question in that regard by substituting the term "felony" for "infamous crime."

**Argument in Favor of Assembly Constitutional Amendment No. 5**

There are approximately 20,000 young people in California who are presently law abiding citizens endeavoring to live honest lives who are deprived under an archaic provision of the State Constitution from the right to vote for life because of mistakes they made and paid the price for as juveniles.

These young people are usually individuals from broken or underprivileged homes and social conditions which inevitably produce a higher incidence of law violations.

They paid their penalties under the jurisdiction of state correctional agencies and were discharged as ex-felons. They have rehabilitated themselves as useful members of society cognizant of the wrongs they have committed, willing to accept their duties and responsibilities as constructive members of the community.

Yet they are deprived of the right to vote for life.

Is this fair?

We say no one who neglects to register and vote is a good citizen. Should we deprive these young people of the opportunity to become good citizens?

Proposition Number 8 would rectify this anomalous situation.

It would correct other injustices.

Proposition 8 proposes an amendment to Section 1 of Article II of the State Constitution. This sec-

tion has a provision that no person convicted of a felony shall ever exercise the privileges of an elector in this State (the term "infamous crime" used in the Constitution has been construed to mean the same as "felony," that is a crime punishable by imprisonment in a state prison or in a federal prison for a sentence of one year or more.) This Proposition would provide instead that no person "while paying the penalties imposed by law, including any period of probation or parole," for conviction of a felony, shall exercise the privileges of an elector. It also adds "treason" to those offenses specifically enumerated for which the right to vote could not be restored except by pardon by the Governor.

The fundamental change proposed is to restore to the individual convicted of a felony (with certain exceptions) the right to vote once he has paid the penalties imposed by law. This franchise would be returned to the individual when his debt to society had been paid.

This perpetual restriction on the right to vote is an outmoded concept and inconsistent with the rehabilitation approach of modern correctional methods. It is repugnant to democratic concepts of justice.

This proposal would not remove present constitutional and statutory restrictions on collateral rights of electors, such as the right to be a candidate and serve in public office. It would not repeal or limit the certificate of rehabilitation procedure under which ex-felons are able to secure recommendations for pardons from the Governor by the Superior Court. It would not limit powers which the Legislature now possesses. It would delete from the fundamental law of the State an unjust restriction.

This medieval and undemocratic perpetual prohibition should be repealed.

This proposition is endorsed by the State Board of Corrections and California Probation, Parole, and Correctional Association.

We recommend a YES vote on Proposition 8.

EDWARD E. ELLIOTT  
Assemblyman, 40th District  
Los Angeles

AUGUSTUS F. HAWKINS  
Assemblyman, 62nd District  
Los Angeles

**Argument Against Assembly Constitutional Amendment No. 5**

This proposed constitutional amendment provides that a person convicted of a felony is

eligible to vote for the period during which he is paying the penalty which the law prescribes for the offense including the period of probation or parole. This amendment changes the present constitutional provision so that instead of losing the right to vote forever unless he is pardoned or successfully applies for release of disabilities under Sec. 1203.4 of the Penal Code, such a person will automatically regain his right to vote after his punishment has been completed. The proposal further liberalizes the law by changing "infamous crimes" to "felonies" since infamous crimes include felonies and possibly other offenses, depending on which definition of a felony is used—a matter on which there is some dispute.

We should not lessen the penalties for those who commit serious crimes against society at a time when crime is increasing and when there is an unprecedented amount of violence in our large communities.

The present law simply says in effect that voting is a privilege. If you commit an infamous crime, you forfeit that privilege until you successfully carry out certain legal steps to regain your voting privilege.

The law is now clear that a person who is convicted of an infamous crime can regain his voting right in two ways—(1) by a pardon, or (2) by completing the procedure to remove disabilities as set forth in Section 1203.4 of the Penal Code. If a man is unworthy to be pardoned or does not care enough about voting to carry out the procedure set forth in Section 1203.4 of the Penal Code, he does not deserve to receive the right to vote.

In short, a man sincerely desirous of regaining his right to vote can already do so under present law.

The proponents of this amendment argue that pardons and the procedure set forth in Section 1203.4 are inadequate because they may involve publicity which will embarrass the party seeking to regain his voting rights. This argument can be answered in two ways:

(1) Embarrassment is part of the price the criminal pays for crime.

(2) If we seek to avoid embarrassment possibly involved in present remedies, there is still no real need for the proposed constitutional amendment. In our eagerness to spare the convicted man embarrassment, it is not necessary to destroy a perfectly understandable constitutional provision that properly emphasizes the importance of voting by saying, if you commit an infamous crime, you shall not automatically receive back your voting rights.

If we desire to spare the convicted person humiliating publicity, why could we not allow a procedure to be authorized by the Constitution in which voting rights could be restored in a proper case by a confidential hearing? Confidential procedures are not unknown. We have them in adoptions, for example. Proper safeguards could be established to protect the interest of the public as well.

This proposed constitutional amendment is unnecessary and undesirable.

VOTE NO  
ON THIS MEASURE

HOWARD J. THELIN  
Member of Assembly, 43rd District  
California Legislature

**CLAIMS AGAINST CHARTERED CITIES AND COUNTIES.** Assembly Constitutional Amendment No. 16. Permits Legislature to prescribe procedures governing claims against chartered counties, cities and counties, and cities, or against officers, agents and employees thereof.

9

YES	
NO	

(For Full Text of Measure, See Page 8, Part II)

**Analysis by the Legislative Counsel**

This constitutional amendment would insure the Legislature's power to establish procedures governing the presentation, consideration, and enforcement of claims against chartered governmental bodies and their officers, agents and employees, despite the "home rule" charter provisions of Article XI of the Constitution. It would add Section 10 to that article and would make applicable to chartered counties, chartered cities, and chartered cities and counties, uniform claim procedures enacted by the Legislature at its 1959 General Session. (See, Gov. Code, Secs. 700 to 720; and Report of California Law Revision Commission, "The Presentation of Claims Against Public Entities" (1959).)

**Argument in Favor of Assembly Constitutional Amendment No. 16**

Until last year a person who was owed money by a city, county, school district or other local

governmental agency often could not collect because of failure to comply with legal technicalities in filing his claim. These technicalities were contained in over 174 different laws concerning the filing of claims! It was difficult even for a lawyer to know exactly which law applied in any particular case.

In 1959 the Legislature repealed all these confusing laws and substituted a simple, uniform claim filing procedure which any citizen can follow to collect what is owing to him by a local governmental agency. However, the new law does not have state-wide application because a few cities and counties are not governed by state law, but by local charters.

Proposition 9 extends the benefits of the new, simple procedures to persons who have legitimate claims against these chartered cities and counties. By adopting Proposition 9, the new law regarding claims will be applicable everywhere in California including chartered cities and counties. No longer,

ernor, in his discretion, prior to such general election, in the same manner that a constitutional amendment proposed by the Legislature would be submitted, and all of the provisions of law relative to submission of such constitutional amendments to the electors and to matters incidental

thereto shall apply to the submission of Sections 1 and 2 of this act, except as otherwise provided in this section or as such provisions may be clearly inapplicable for the submission of amendment to an initiative measure pursuant Section 1b of Article IV of the State Constitution...

<b>8</b>	<b>ELIGIBILITY TO VOTE. Assembly Constitutional Amendment No. 5.</b> Changes prohibitions of eligibility to vote from those convicted of infamous crime to those convicted of felony during punishment therefor and those convicted of treason.	YES	
		NO	

(This proposed amendment expressly amends an existing section of the Constitution; therefore **EXISTING PROVISIONS** proposed to be **DELETED** are printed in **STRIKEOUT TYPE**; and **NEW PROVISIONS** proposed to be **INSERTED** are printed in **BLACK-FACED TYPE**.)

the purpose of such election be deemed to be a resident and qualified elector of the precinct or county from which he so removed until after such election; provided, further, no alien ineligible to citizenship, no idiot, no insane person, no person convicted of any infamous crime, no person hereafter convicted of felony, while paying the penalties imposed by law therefor, including any period of probation or parole, no person convicted of treason, the embezzlement or misappropriation of public money, and no person who shall not be able to read the Constitution in the English language and write his or her name, shall ever exercise the privileges of an elector in this State; provided, that the provisions of this amendment relative to an educational qualification shall not apply to any person prevented by a physical disability from complying with its requirements, nor to any person who had the right to vote on October 10, 1911, nor to any person who was 60 years of age and upwards on October 10, 1911; provided, further, that the Legislature may, by general law, provide for the casting of votes by duly registered voters who expect to be absent from their respective precincts or unable to vote therein reason of physical disability, on the day on which any election is held.

**PROPOSED AMENDMENT TO ARTICLE II**

**SECTION 1.** Every native citizen of the United States of America, every person who shall have acquired the rights of citizenship under and by virtue of the Treaty of Querétaro, and every naturalized citizen thereof, who shall have become such 90 days prior to any election, of the age of 21 years, who shall have been a resident of the State one year next preceding the day of the election, and of the county in which he or she claims his or her vote 90 days, and in the election precinct 54 days, shall be entitled to vote at all elections which are now or may hereafter be authorized by law; provided, any person duly registered as an elector in one precinct and removing therefrom to another precinct in the same county within 54 days, or any person duly registered as an elector in any county in California and removing therefrom to another county in California within 90 days prior to an election, shall for

<b>9</b>	<b>CLAIMS AGAINST CHARTERED CITIES AND COUNTIES. Assembly Constitutional Amendment No. 16.</b> Permits Legislature to prescribe procedures governing claims against chartered counties, cities and counties, and cities, or against officers, agents and employees thereof.	YES	
		NO	

(This proposed amendment does not expressly amend any existing section of the Constitution, but adds a new section thereto; therefore, the provisions thereof are printed in **BLACK-FACED TYPE** to indicate that they are **NEW**.)

cedures governing the presentation, consideration and enforcement of claims against chartered counties, chartered cities and counties, and chartered cities, or against officers, agents and employees thereof.

**PROPOSED AMENDMENT TO ARTICLE XI**

**Sec. 10.** No provision of this article shall limit the power of the Legislature to prescribe pro-

<b>10</b>	<b>ADMINISTRATION OF JUSTICE. Senate Constitutional Amendment No. 14.</b> Provides that membership of Judicial Council besides judges shall include members of State Bar and two legislators; permits appointment of administrative director. Creates Commission on Judicial Qualifications consisting of judges, members of State Bar and citizens; provides procedure for removal of judges for misconduct or to compel retirement for disability. Declares State Bar of California is a public corporation. Changes name of Commission on Qualifications to Commission on Judicial Appointments.	YES	
		NO	

(This proposed amendment expressly amends an existing section of the Constitution, and adds new sections thereto; therefore, **EXISTING PROVISIONS** proposed to be **DELETED** are printed in

**STRIKEOUT TYPE**, and **NEW PROVISIONS** proposed to be **INSERTED** or **ADDED** are printed in **BLACK-FACED TYPE**.)